



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0008; Notice 2]

OSRAM SYLVANIA Products Incorporated, Grant of Petition for  
Decision of Inconsequential Noncompliance

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Grant of Petition.

**SUMMARY:** OSRAM SYLVANIA Products, Inc.<sup>1</sup> (OSRAM) has determined that certain Type HB2 replaceable light sources, manufactured between September 25 2011 and October 8, 2011, do not fully comply with paragraph S7.7 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamp, Reflective Devices, and Associated Equipment*. OSRAM has filed an appropriate report dated November 23, 2011<sup>2</sup>, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, OSRAM has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of the petition was published, with a 30-day public comment period, on April 9, 2012 in the Federal Register (77 FR

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<sup>1</sup> OSRAM SYLVANIA Products Inc. is a manufacturer of motor vehicle replacement equipment and is registered under the laws of the state of Delaware.

<sup>2</sup> OSRAM submitted an amended version of the report on January 6, 2012.

21152). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2012-0008."

For further information on this decision contact Mr. Michael Cole, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202)366-2334, facsimile (202)366-7002.

**EQUIPMENT INVOLVED:** Affected are approximately 40,544 Type HB2 replaceable light sources that were manufactured by OSRAM SYLVANIA Products, Inc., between September 25, 2011, and October 8, 2011.

**SUMMARY OF OSRAM'S ANALYSIS AND ARGUMENTS:** OSRAM explains that the noncompliance is due to an error in the production facility. Certain Type HB2 replaceable light sources were produced with an incorrect upper beam filament wire which results in an upper beam luminous flux outside (below) the specifications as required in paragraph S7.7 of FMVSS No. 108.

OSRAM stated that although the subject Type HB2 replaceable light source may not meet the required luminous flux specifications, the noncompliance is inconsequential to motor vehicle safety. OSRAM came to this conclusion based on the following results of testing that it conducted on a large sample

of lamps using the subject noncompliant Type HB2 replaceable light sources:

- (1) In half of the vehicle/lamp applications, the upper beam photometry specified for HB2 lamps will continue to be met;
- (2) In the remaining applications, the photometry performance falls just below the specified minimums for HB2 lamps (and in no more than three, but typically just one or two, test points on a per-measured headlamp basis); and
- (3) All lamps using the noncompliant bulbs perform at or above the upper beam photometry requirements of other lamp types, such as HB1 and HB5, that are currently permitted by FMVSS 108 and in prevalent use on U.S. roads.

OSRAM also stated that the issue that caused the subject noncompliance has been corrected at the production facility and all products currently being shipped meet the applicable requirements.

In summation, OSRAM believes that the described noncompliance of its Type HB2 replaceable light sources to meet the requirements of FMVSS No. 108 is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C.

30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

#### **NHTSA ANALYSIS AND DECISION:**

##### *Requirement Background*

Section S7.7 of FMVSS No. 108 specifically states:

S7.7 Each replaceable light source shall be designed to conform to the dimensions and electrical specifications furnished with respect to it pursuant to part 564 of this chapter, and shall conform to the following requirements:...

NHTSA has reviewed and accepts OSRAM's analyses that this noncompliance is inconsequential to motor vehicle safety. While the replaceable light source marginally fails to comply with the luminous flux requirements of Docket No. NHTSA-1998-3397-0011, when it is placed into a headlamp, it does meet the FMVSS photometry requirements.

The subject replaceable light source fell 4% below the lower limit for the upper beam of HB2 bulbs, rendering it noncompliant. According to OSRAM, this was due to an incorrect filament wire being used during production. When this noncompliance was determined, the entire inventory of suspect light sources of OSRAM's sole customer of original equipment was returned to OSRAM. Therefore, this petition only applies to aftermarket products. Headlamp performance is primarily affected by luminous flux output and filament geometry. OSRAM

found that while bulbs produced with the incorrect filament wire did not meet the upper beam luminous flux requirements, they did comply with upper beam filament geometry requirements. This allowed headlamps using the subject replaceable light sources to pass the upper beam photometry requirements specified in section UB3 of Table XVIII in FMVSS No. 108. Furthermore, in a 2006 University of Michigan Transportation Research Institute report<sup>3</sup>, researchers observed that upper beams were only used for 3.1% of the distance driven at night. This indicates that the potential safety risk with slightly less intensity lighting would be further diminished because the noncompliance only applies to upper beam performance.

As such, NHTSA agrees that due to a combination of the following factors: the subject replaceable light source only fell 4% below the lower limit, headlamps with the subject light sources pass FMVSS 108 photometry requirements, only aftermarket products are affected, and only the upper beam is affected; an occupant using the noncompliant subject light source would not be exposed to a significantly greater risk than an occupant using a similar compliant light source. Therefore the noncompliance is inconsequential to motor vehicle safety.

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<sup>3</sup> "Real-World Use of High-Beam Headlamps". Report No: UMTRI-2006-11, Mefford, Flannagan, and Bogard, April 2006.

In consideration of the foregoing, NHTSA has decided that OSRAM has met its burden of persuasion that the FMVSS No. 108 noncompliance in the Type HB2 replaceable light sources identified in OSRAM's Noncompliance Information Report is inconsequential to motor vehicle safety. Accordingly, OSRAM's petition is granted and the OSRAM is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject Type HB2 replaceable light sources that OSRAM no longer controlled at the time it determined that a noncompliance existed.

**AUTHORITY:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**ISSUED ON:**

**JULY 25, 2013**

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Claude H. Harris, Director  
Office of Vehicle Safety Compliance

**BILLING CODE:** 4910-59-P

[FR Doc. 2013-18243 Filed 07/29/2013 at 8:45 am; Publication  
Date: 07/30/2013]